

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:05CV282-3-V
(3:02CR227-1)

RICHARD CARROLL,)	
)	
Petitioner,)	
)	
v.)	<u>O R D E R</u>
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
)	

THIS MATTER is before this Court on its own motion.

On June 13, 2005 Petitioner filed a Motion to Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C. § 2255 (Document No. 1.) This Court ordered the government to file an answer on or before June 21, 2005 (Document No. 4.) On August 10, 2005 the government filed a motion for an extension of time to file its answer, which this Court granted. (Document No. 7.) The government filed its Answer and a Motion for Summary Judgment on September 19, 2005. On September 20, 2005 this Court directed the Petitioner to file a response to the government's Motion for Summary Judgment. Petitioner filed his response to the government's Motion for Summary Judgment on October 17, 2005.

The Court has reviewed the government's Motion for Summary Judgment and the brief supporting the Motion for Summary Judgment and concludes that such documents fail to adequately address the Petitioner's claims of ineffective assistance of counsel. Counsel for the government has failed to even follow its typical protocol in providing the court with an affidavit from Petitioner's

trial counsel, or a copy of the sentencing transcript. Furthermore, the government's motion merely cites to the well known case law regarding ineffective assistance of counsel without any meaningful factual analysis of Petitioner's specific claims. Therefore, the Court directs the government to file a supplement to its Answer and Motion for Summary Judgment which addresses Petitioner's claims of ineffective assistance of counsel on or before June 30, 2006. Counsel for the government shall include a factual analysis of each of Petitioner's claims of ineffective assistance of counsel outlined in his Petition and "Petitioners [sic] Traverse to the Governments [sic] Response to Petitioners [sic] § 2255 Petition and Motion for Summary Judgment" (Document No. 15.)

SO ORDERED.

Signed: May 25, 2006



Richard L. Voorhees
Chief United States District Judge

